

**JAN 13 2006****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERNANDO CRESPO-JIMENEZ, a/k/a  
Jose Fernando Crespo-Jimenez and  
Fernando Crespo,

Defendant - Appellant.

No. 04-50377

D.C. No. CR-01-00033-AHS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Alicemarie H. Stotler, District Judge, Presiding

Submitted January 9, 2006<sup>\*\*</sup>

Before: HUG, O'SCANNLAIN and SILVERMAN, Circuit Judges.

Fernando Crespo-Jimenez appeals from the 18-month sentence the district court imposed upon revocation of his supervised release. We have jurisdiction

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. § 1291, and we affirm.

Crespo-Jimenez contends that the district court erred by sentencing him without considering the policy statement sentencing range pertaining to Grade C violations of supervised release. We disagree. The record reflects that the district court considered the ranges for both Grade B and Grade C violations and then properly exercised its discretion to impose a sentence that fell between them. *See United States v. George*, 184 F.3d 1119, 1122 (9th Cir. 1999) (explaining that the district court need only consider the Chapter 7 policy statements in calculating a sentence upon revocation of supervised release).

To the extent Crespo-Jimenez contends that *United States v. Booker*, 543 U.S. 220 (2005), applies to revocation proceedings, we reject the contention. *See George*, 184 F.3d at 1122 (explaining that the Guidelines policy statements regarding revocation of supervised release are non-binding).

**AFFIRMED.**